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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,359	08/04/2003	Wellesley Alexander Allen		3700

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/633,359

Applicant(s)

ALLEN

Examiner

Michael Butler

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Applicant's claim of priority to application 2430936 filed 1/15/99 in Canada for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: applicant has not provided the certified copy of the foreign priority document.

### ***Claim Rejections - 35 USC § 112***

2. Claims 20-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not disclose: the dispenser fixed with an electronic device which would allow it to send off certain signals; nor the lid assembly is permanently attached yet rotatable.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim(s) 1-21 is/are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims need be numbered using Hindu-Arabic numbers rather than Roman numerals.

Claims need be written as a single sentence. Applicant has created an undue plurality of scopes with his excessive conjugation of terms with the conjunction “or” creating varying interpretations such as alternative embodiments, devices capable of performing plural functions, devices capable of plural structures.

There is a lack of antecedent basis for the following terms: (Re: cl 1) the lid assembly combination; the inside top; the inside bottom; the hole on top; the indicating tab; (Re: cl 4) the start and finishing chambers; the largest; (Re: cl 5) the underside of the dispenser; (Re: cl 7) the other lids; (Re: cl 14) the bottom stacking container;

It is not apparent what structure the following terms or which attribute(s) are being limited to in the claims: (Re: cl 8) spring-like, (Re: cl 20) the same method as before, (Re: cl 21) help audio or visual impairment.

5. The following is a quotation of the fifth paragraph of 35 U.S.C. 112:

A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.

6. Claims 8-21 are rejected under 35 U. S. C. 112 fifth paragraph, as being improper multiple dependent claims. A multiple dependent claim may not depend from another multiple dependent claim- directly or indirectly. Applicant should restructure the claim dependency so that dependency of multiple dependent claims rely upon reference from a singly dependent claim.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claim(s) 1-19 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (CA 2311269 A1) which discloses all the claimed elements including:

(Re: cl 1) The invention as claimed, an improved manually operated pill dispenser, the lid assembly combination comprising a dispensing hole on top, a hollow plastic tube fitted to the inside top as shown, or other corrugated plastic to provide a spring-like action, an indexing tab at the inside bottom and an alignment indicator on the outside wall in front of the hole on top of the indicating tab to engage with the dispenser and to align the hole with each chamber. The dispenser comprises in combination a plurality of radially constructed chambers on top to hold and dispense a collection of pills, including a blind space, an alignment indicator and a raised embossment at the top periphery of the chambers shaped like the cross section of a square thread pointing downwards the depth area creating notches and ridges around the periphery in alignment with each chamber. The periphery walls are also embossed with raised characters spelling out each weekday Sunday to Saturday, the space occupying the spelling is divided into 4 equal time segments each representing the abbreviations of Breakfast BRK, Lunch LUN, Supper SUP, Bedtime BDT, the abbreviations are constructed vertically in alignment with each chamber, and each notch is aligned with a chamber, the underside is constructed with multiple lid adapters the larger lid is modeled to that of the dispensing lid without the hole to host a plurality of stacking containers each having a male and female end including one without the female end for the bottom, and the others modeled to adopt existing pill bottles of varying sizes, it is so arranged that the lid combination indexes in a notch at the blind space which engages the lid to the dispensing chambers and encloses its contents, each consecutive notch around the periphery thereafter is aligned to a chamber

(Re: cl II) the lid assembly combination and the dispenser are molded from a suitable plastic material whereby various colors may be added to the construction for better clarity

(Re: cl III) the dispenser comprises in combination a plurality of radially constructed chambers on top to hold and dispense a collection of pills

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(Re: cl IV) the chamber comprises a blind space that serves as a closing port between the start and finishing chambers

(Re: cl V) the underside of the dispenser comprises a construction of multiple lid adapters, the largest is modeled to that of the dispensing lid without the hole to host its own stacking containers

(Re: cl VI) the stacking containers comprises a male and female end that is modeled to that of the top periphery of the dispenser and the dispensing lid without the hole to interconnect with each other and to the dispenser

(Re: cl VII) the other lids are constructed to adopt existing pill bottles of varying sizes

(Re: cl VIII) the lid construction comprises a hollow plastic tube or a suitable corrugated plastic plate or plastic bubble to provide a spring-like action to retract the lid and lock it in place

(Re: cl IX) the lid construction comprises a suitable plastic plate or other suitable means to provide a spring-like action to retract the lid and lock it in place

(Re: cl X) the construction of the dispenser walls comprises an embossment of axially raised characters labeling the days of the week to assist in the illustrations of the functions

(Re: cl XI) the construction of the dispenser walls comprises an embossment of vertically raised characters abbreviated BRK, LUN, SUP, BDT, each abbreviation is aligned with a chamber to assist in the illustration of the functions

(Re: cl XII) the top periphery of the dispenser comprise raised notches shaped like the cross section of a square thread pointing downwards, the depth is aligned with each chamber to effect a precise indexing and locking when the lid engages the dispenser and rotate

(Re: cl XIII) the dispenser comprises interlocking features that allows them to be coupled together at both ends

(Re: cl XIV) the bottom stacking container comprises only a male end so it sits flat

(Re: cl XV) the dispenser could be fitted with a coil spring in the center as part of the safety mechanism that may prevent the user from skipping or doubling their daily doses because of the process of operation it allows to access each chamber. Push down, rotate, retract and lock

(Re: cl XVI) the design may prove to be advantageous to users with limitations in dexterity of motion including amputees

(Re: cl XVII) this invention may provide a reliable means for vacationers and travelers to apportionately meter a supply of pills for their trip

(Re: cl XVIII) dispenser may also serve as a means of prepackaging medication before getting it to the consumer

(Re: cl XIX) dispenser may also be used by fishermen and anglers for various applications (claims I – XIX are verbatim reiterations of applicant's earlier cited Canadian pre-grant publication).

***Claim Rejections - 35 USC § 103***

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim(s) 1-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Marlar (US 5323929) wherein Allen discloses the elements previously discussed and Marlar discloses any elements not inherently taught by Allen including:

the dispenser having an electronic device which would allow it to send off certain signals which would help some users with audio or visual impairment (abstract).

It would have been obvious for one of ordinary skill in the art to modify Allen because an alarm can notify a visually impaired user when it is time to take a medication as taught by Marlar and come up with the instant invention.

11. Claim(s) 1-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Papp (US 6234343 B1) wherein Allen discloses the elements previously discussed and Papp discloses any elements not inherently taught by Allen including:

the dispenser having an electronic device which would allow it to send off certain signals which would help some users with audio or visual impairment (32 fig 2).

It would have been obvious for one of ordinary skill in the art to modify Allen because an alarm can notify a visually impaired user when it is time to take a medication as taught by Papp and come up with the instant invention.

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12. Claim(s) 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of McLaughlin et al. (US 5522525) wherein Allen discloses the elements previously discussed and McLaughlin et al. discloses any elements not inherently taught by Allen including:

the lid assembly could be permanently attached yet rotatable and therefore allowing the entire unit to be stackable using the same method of operation described before (30 fig 3 with fig 1)

the dispenser having an electronic device which would allow it to send off certain signals which would help some users with audio or visual impairment (C3 L 48-57).

It would have been obvious for one of ordinary skill in the art to modify Allen because an alarm can notify a visually impaired user when it is time to take a medication as taught by McLaughlin et al. and come up with the instant invention. It would have been obvious for one of ordinary skill in the art to modify Allen with a permanent stackable lid because a permanent lid can avert tampering and accidental loss of medicaments as taught by McLaughlin et al. and come up with the instant invention.

13. Claim(s) 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Chabout (US 6068158) wherein Allen discloses the elements previously discussed and Chabout discloses any elements not inherently taught by Allen including:

(Re: cl 20) the lid assembly could be permanently attached yet rotatable and therefore allowing the entire unit to be stackable using the same method of operation described before (fig2).

It would have been obvious for one of ordinary skill in the art to modify Allen with a permanent stackable lid because a permanent lid can avert tampering and accidental loss of medicaments as taught by Chabout and come up with the instant invention.



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14. Claim(s) 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Castleberry (US 6234346) wherein Allen discloses the elements previously discussed and Castleberry discloses any elements not inherently taught by Allen including:

(Re: cl 20) the lid assembly could be permanently attached yet rotatable and therefore allowing the entire unit to be stackable using the same method of operation described before (fig2).

It would have been obvious for one of ordinary skill in the art to modify Allen with a permanent stackable lid because a permanent lid can avert tampering and accidental loss of medicaments as taught by Castleberry and come up with the instant invention.

15. Claim(s) 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Grimes (US 4117952) wherein Allen discloses the elements previously discussed and Marlar discloses any elements not inherently taught by Allen including:

the lid assembly could be permanently attached yet rotatable and therefore allowing the entire unit to be stackable using the same method of operation described before (60 fig 1-3,82 fig 4; c4 L 36-56).

It would have been obvious for one of ordinary skill in the art to modify Allen with a permanent stackable lid because a permanent lid can avert tampering and accidental loss of medicaments as taught by Marlar and come up with the instant invention.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

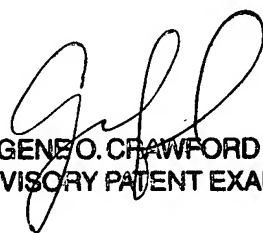
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford, can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael E. Butler  
Examiner



GENEO. CRAWFORD  
SUPERVISORY PATENT EXAMINER